

# EXHIBIT H



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VIA FEDEX

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**Re: *Christine Whalen, et al. v. Kroger Co., et al.*, Case No. 3:23-cv-00459-VC**

Dear Counsel:

I write on behalf of Albertsons Companies, Inc. (“Albertsons”) in connection with its November 15, 2023 production in response to the Court’s October 30, 2023 Order (ECF No. 103) via encrypted hard drives. The production is on 4 hard drives labeled ACI Whalen Delivery 1 - 4 that include documents bearing the Bates numbers ACI2R-0000000001 through ACI2R-0041465088, as well as various standalone production volumes containing documents bearing the bates numbers ACI2R\_Appendix xx-00000x.

This production is made pursuant to the Protective Order entered by the Court today in the above-captioned matter (Dkt. No. 82). This production contains documents that have been designated by Albertsons as Highly Confidential as defined by the Protective Order and must be given highly confidential treatment as defined therein.

Please be advised that certain documents included in the enclosed production are redacted in part to remove information protected by attorney-client privilege and/or the work product doctrine. These redactions were present in the original productions as submitted to the Federal Trade Commission. In preparing today’s production, Albertsons has not applied any additional redactions, for privilege or otherwise.

In the event that documents included in today's production contain information that is privileged or subject to other protections from disclosure, the production of such information was inadvertent and without prejudice to or waiver of any claim that such material is privileged under the attorney-client or other applicable privilege, protected from discovery as work product, or otherwise protected from disclosure. Albertsons respectfully reserves the right to clawback any documents containing information that is privileged or otherwise protected from disclosure in the event such documents are inadvertently produced. Should you identify during your review documents that appear to be privileged or otherwise inadvertently produced, we ask that you notify us immediately and cease review of such documents.

Best regards,

/s/ Leah S. Martin

Leah S. Martin, Esq.

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